AO 243 (Rev. 11/2002) Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody

UNITED STATES DISTRICT COURT DISTRICT OF PUERIO RICO

Case Number:	
Cr. No. <u>3:97-cr-00</u>	074-DRD-6
UNITED STATES OF AMERICA v.	
Ronald Barrios~Garcia Name of Movant (name under which convicted) Reg. No. 14937-069	
Prisoner No. FCC-Coleman Medium, P.O. Box 1032	
Coleman, Florida 33521-1032	- .
Place of Confinement	-

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY

	e of judgment of converted of sentence	-	•
Nati			21 U.S.C. §846, Conspiracy to distribute
			
·····			
Wha	t was your plea? (Ch	eck one)	
(a)	Not guilty		
(b)	Guilty	23	
(c)	Nolo contendere		
	ou entered a guilty ple	ea to one count of	or indictment, and not a guilty plea to another count or indictment, give

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10 24	3 (Rev. 1	1/2002)	Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody
6.	If you (a) (b)	Jury	ded not guilty, what kind of trial did you have? (Check one) ☐ e only □
7.	Did y Yes		stify at the trial? No No
8.	Did y Yes	•	peal from the judgment of conviction? No 国
9.	If yo	u did a	appeal, answer the following:
	(a)	Nam	e of court
	(b)	Resu	ılt
	(c)	Date	of result
10.		cation	a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, as, or motions with respect to this judgment in any federal court? No
11.	If vo	ur ans	swer to 10 was "yes", give the following information:
	(a)	1.	Name of court
	(4)	2.	Nature of proceeding
		3.	Grounds raised
		4.	Did you receive an evidentiary hearing on your petition, application or motion? Yes □ No □
		5.	Result
		6.	Date of result
	(b)	As to	o any second petition, application or motion give the same information:
		1.	Name of court
		2.	Nature of proceeding
		3.	Grounds raised

4.	Did you receive an evidentiary hearing on your petition, application or motion?											
	Yes		No									
5.	Result						 .					
6.	Date of	fresult										
	id you appeal to an appellate federal court having jurisdiction, the result of action taken on any petition, plication or motion?											
1.	First pe	etition, etc.			Yes		No					
2.	Second	l petition, etc	;.		Yes		No					
	not:									оп , о лр	lain brie	
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	,											

12. State *concisely* every ground on which you claim that you are being held in violation of the constitution, laws or treaties of the United States. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: If you fail to set forth all ground in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self incrimination.

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(f)	Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
(g)	Conviction obtained by a violation of the protection against double jeopardy.
(h)	Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
(i)	Denial of effective assistance of counsel.
(j)	Denial of right of appeal.
Α.	Ground one: Violation of Movant's Due Process Rights Under the U.S.
11.	Constitution.
	Supporting FACTS (state <i>briefly</i> without citing cases or law)
	a Anna 1 a Marana dan af Isra
	See Attached Memorandum of Law
В.	Ground two:
	Supporting FACTS (state <i>briefly</i> without citing cases or law)
	Supporting 11101B (state of 1919) white a state of the st
C.	Ground three:
	Supporting FACTS (state briefly without citing cases or law)

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D.	Supporting FACTS (state briefly without citing cases or law)						
	y of the grounds listed in 12A, B, C, and D were not previously presented, state <i>briefly</i> what ground were esented, and give your reasons for not presenting them:						
	The due process violation was not found out about until the Bureau of Pris						
	calculated the Movant's Sentence, and did so contrary to this Court's Orde						
Do y	ou have any petition or appeal now pending in any court, as to the judgment under attack?						
Do y Yes	ou have any petition or appeal now pending in any court, as to the judgment under attack?						
Yes Give	the name and address, if known, of each attorney who represented you in the following stages of judgmented herein: * Because this is a matter in regards to Movant's resentence						
Yes Give	□ No 🖺 the name and address, if known, of each attorney who represented you in the following stages of judgment						
Yes Give	the name and address, if known, of each attorney who represented you in the following stages of judgment ked herein: * Because this is a matter in regards to Movant's resentence.						
Yes Give attac (a)	the name and address, if known, of each attorney who represented you in the following stages of judgment ked herein: * Because this is a matter in regards to Movant's resentence only that attorney is listed herein. At preliminary hearing						
Yes Give attac (a) (b)	the name and address, if known, of each attorney who represented you in the following stages of judgment ked herein: * Because this is a matter in regards to Movant's resentence only that attorney is listed herein. At preliminary hearing At arraignment and plea						
Yes Give attac (a) (b)	the name and address, if known, of each attorney who represented you in the following stages of judgmer ked herein: * Because this is a matter in regards to Movant's resentence only that attorney is listed herein. At preliminary hearing At arraignment and plea At trial						
Yes Give attac (a) (b) (c) (d)	the name and address, if known, of each attorney who represented you in the following stages of judgment ked herein: * Because this is a matter in regards to Movant's resentence only that attorney is listed herein. At preliminary hearing At arraignment and plea At trial Te: At sentencing David Roman, attorney at law, [CJA]						

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Č				more than one count of an indictment, or on more than one indictment, in the same court e same time?	
,	Yes		No		
	Do yo Yes	u have any □	future No	sentence to serve after you complete the sentence imposed by the judgment under attack?	
((a)	If so, give	name	and location of court which imposed sentence to be served in the future:	
((b)	Give date	and le	ength of the above sentence:	
4	(c)		to be se	or do you contemplate filing, any petition attacking the judgment which imposed the erved in the future? No No	
		1 00 —	,	140	
		100	J	140 🗅	
7	Where			vs that the Court grant him all relief to which he may be entitled in this proceeding.	
7	Where				
		fore, mova	nt pray	vs that the Court grant him all relief to which he may be entitled in this proceeding.	
	decla	fore, mova	nt pray	s that the Court grant him all relief to which he may be entitled in this proceeding. Signature of Attorney (if any)	

Movant's motion is timely filed because, although he was resentenced on May 12, 2007, Movant did not file a notice of appeal, therefore there is a 10 day grace period (excluding weekends and holidays) for his 1 year time limitation period to begin under the IEDPA, which would give him until May 26, 2007 to timely file this §2255 motion. Movant further declares that on May 25, 2007, he placed this motion into the hands of prison officials, by depositing it in the U.S. Mailbox with first class postage affixed thereto, and it is deemed filed this day (May 25, 2007) in accordance with Houston v. Lack, 487 U.S. 266 (1988). (MAILBOX RULE).

Signature of Movant